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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,801	07/30/2003	Naoto Abe	00862.002955.1	7926
5514	7590	12/29/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			WU, XIAO MIN	
			ART UNIT	PAPER NUMBER
			2674	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/629,801	Applicant(s) ABE ET AL.	
	Examiner XIAO M. WU	Art Unit 2674	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-41 and 44-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-41 and 44-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 32-41 and 44-46 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,839,054. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons. The side by side comparison between two most representative claims are illustrated as follows:

Claim 11 of US Patent No. 6,839,054	Claim 32 of the instant application
11. An image display apparatus comprising: a plurality of display devices wired in a matrix through a plurality of scanning signal wirings and a plurality of modulated signal wirings;	32. An image display apparatus comprising: a plurality of display devices wired in a matrix through a plurality of scanning signal wirings and a plurality of modulated signal wirings; and
a driving circuit for applying a modulated signal having a pulsewidth	A driving circuit configured to apply a modulated signal having a modulated

corresponding to an image signal to each of said plurality of modulated signal wirings;	pulsewidth to each of said plurality of modulated signal wirings
a switching circuit provided to each of the modulated signal wirings, adapted to change a signal level of the modulated signal in discrete decrements from a predetermined level of a display state to a predetermined level of a non-display state by way of an intermediate level between the predetermined level of a display state and the predetermined level of a non-display state; and	Wherein said driving circuit has a plurality of charge paths for changing a signal level of the modulated signal from a first level corresponding to a display state to a second level corresponding to a no-display state, and
a circuit for determining the operation states of the plurality of charge paths in accordance with levels of signals supplied to said signal wirings adjacent to a wiring connected to a controlled charge path.	changes an operating state of each of the plurality of charge paths in the process of changing the signal level of the modulated signal from the first level to the second level

From the comparison above, it is noted that claim 32 is broadening from claim 11 since claim 32 does not require “an intermediate level between the predetermined level of a display state and the predetermined level of a non-display state”. However, it would have been obvious to one of ordinary skill in the art to realize that the an intermediate level is not necessary in between for changing one state to another state.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 45 is rejected under 35 U.S.C. 102(b) as being anticipated by Amano (US Patent No. 4,021,607).

5. As to claims 32, 42, Amano discloses an image display apparatus comprising: a plurality of display devices (1, Fig. 5) wired in a matrix through a plurality of scanning signal wirings (X1-X5, Fig. 5) and a plurality of modulated signal wirings (A1 to D4, Fig. 5); and a driving circuit (Fig. 5) configured to apply modulated signal having a pulsewidth (see Fig. 9) to each of said plurality of modulated signal wirings, wherein a signal level (e.g. a signal level 3, 7, 11 and 15 as shown in Fig. 9 of substantially all of the modulated signals (e.g. 0-15 of the gray scale levels as shown in Fig. 9) which have the maximum level of the modulated signal is changed from the maximum level to a level corresponding to a non-display state via an intermediate level.

Response to Arguments

6. Applicant's arguments with respect to claims 32-41, 44-46 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 10/3/2005 have been fully considered but they are not persuasive. With respect to newly added claim 45, applicant argues that Amano does not disclose "a signal level of substantially all of the modulated signals which have the maximum level of the modulated signal is changed from the maximum level to a level corresponding to a non-display state via an intermediated level". This argument is not persuasive because claim 45 only requires "**a signal level** of substantially all of the modulated signals..", and Amano clearly discloses a signal level (such level 3, 7, 11 and 15) of the total levels 16 have the maximum level

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of the modulated signal is changed from the maximum level to a level corresponding to a non-display state via an intermediate level.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to XIAO M. WU whose telephone number is 571-272-7761. The examiner can normally be reached on 6:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK EDOUARD, can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

X.W.
December 26, 2005


XIAO M. WU
Primary Examiner
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